

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Media Bureau Seeks Comment of Catalog of	)	GN Docket No. 12-268
Eligible Expenses and Other Issues Related to	)	
the Reimbursement of Broadcaster Channel	)	
Reassignment Costs	)	

**REPLY COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®**

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**REPLY COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®**

**I. INTRODUCTION AND SUMMARY**

CTIA – The Wireless Association® (“CTIA”)<sup>1</sup> hereby submits these reply comments in response to the Public Notice released by the Media Bureau (the “Bureau”) seeking to further develop the record on issues related to the reimbursement of broadcaster channel reassignment costs.<sup>2</sup> The TV Broadcaster Relocation Fund will play a vital role in ensuring that the upcoming incentive auction proceeds in an efficient manner. For the incentive auction to be successful, the Commission must have access to data associated with broadcast operations as well as pricing information associated with repacking costs. Without this information, the Commission will not be able to make real-time decisions during the incentive auction to select the best repacking outcomes for those broadcasters that will remain in the television spectrum. The Commission can achieve this outcome through the development of processes that provide clarity and certainty

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<sup>1</sup> CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Service, 700 MHz, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products. More information about CTIA is available on the Association’s website at <http://www.ctia.org/aboutCTIA/>.

<sup>2</sup> *Media Bureau Seeks Comment on Catalog of Eligible Expenses and Other Issues Related to the Reimbursement of Broadcaster Channel Reassignment Costs*, Public Notice, DA 13-1954 (Sept. 23, 2013) (“Public Notice”).

to interested parties. Given the Commission's past successes in this area, CTIA is confident that, through the development of sound regulations and policies, the Commission will ensure this result.

CTIA believes that there are important steps the Commission must take to oversee an effective relocation of television broadcasters. First, CTIA believes that the Catalog of Eligible Expenses should be fairly exhaustive, as long as those expenses are directly related to repacking. CTIA supports certainty in the process for providing broadcaster repacking cost reimbursement, and believes that a comprehensive Catalog is a necessary step in this process. Second, CTIA urges the Commission to inventory existing television broadcasters to determine the pricing and capabilities of broadcast equipment. This will also help the Commission determine the ability of particular stations to move to different UHF channels and make other repacking decisions. Such an inventory is particularly important given the lack of meaningful pricing data in the record. Finally, the Commission should reject proposals by wireless microphone manufacturers for relocation reimbursement from forward auction participants. In the context of the 700 MHz auction, wireless microphone operators properly were required to handle their own relocation costs. The Commission should not revisit that decision for the 600 MHz band.

CTIA and its members have repeatedly stressed the importance of the broadcast incentive auction to America's future technology leadership. An efficient, data-driven reimbursement process will play a key role in the incentive auction's success. By taking the steps proposed by CTIA in these reply comments, the Commission will take important steps toward a productive incentive auction.

## **II. CTIA SUPPORTS CERTAINTY IN THE PROCESS FOR PROVIDING BROADCASTER REPACKING COST REIMBURSEMENT.**

In the Public Notice, the Bureau correctly notes that there will be a variety of different costs borne by broadcasters who choose to remain on the air after the incentive auction.<sup>3</sup> The process of repacking broadcasters and reimbursing their associated costs will be a complex one, and CTIA believes that providing certainty to affected broadcasters is an essential step. The Commission has substantial experience in this area that it should draw upon as it designs the repacking and reimbursement process. CTIA believes that one of the most important steps the Commission can take to facilitate repacking is to develop a comprehensive Catalog of Eligible Expenses.

The Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”) dictates the creation of a TV Broadcaster Relocation Fund and stipulates that the fund be limited to \$1.75 billion.<sup>4</sup> The Commission has had significant experience overseeing various relocation and reimbursement processes, and it should draw upon this experience as it develops procedures for the incentive auction reimbursement process. When the Commission first allocated PCS spectrum, it designated a frequency coordinator – UTAM, Inc. – as responsible for recovering relocation and band clearing costs.<sup>5</sup> The Commission has also overseen reimbursement processes in connection with the relocation of fixed microwave and BRS incumbents from the

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<sup>3</sup> *Id.* at 2.

<sup>4</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402, 6403, 125 Stat. 156 (2012) (“Spectrum Act”).

<sup>5</sup> *Microwave Relocation Cost-Sharing Plan*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8825 (1996).

AWS band.<sup>6</sup> CTIA therefore is confident that the Commission can design and implement a reimbursement framework that comports with the Spectrum Act's requirement and serves the needs of all affected parties.

The Commission can best provide certainty to affected broadcasters by developing a comprehensive Catalog of Eligible Expenses. CTIA believes that the Catalog of Eligible Expenses should be fairly exhaustive, provided that those costs are related to repacking. The Commission therefore should endeavor to make its Catalog as complete as possible.

### **III. CTIA URGES THE COMMISSION TO INVENTORY EXISTING TV BROADCASTERS FOR EQUIPMENT CAPABILITIES AND PRICING.**

CTIA believes that an essential component of the repacking reimbursement process is an inventory of existing broadcaster facilities. For a variety of reasons, the Commission would benefit from having more information on TV broadcast systems currently in operation. Obtaining this information will empower the Commission to make key decisions not only about reimbursement, but also about the repacking itself. While the Public Notice asked commenters to provide this cost data, very few have done so. Without this information, the Commission has no benchmark to determine the reasonableness of repacking reimbursement costs and will be unable to make rational decisions concerning broadcast repacking during the incentive auction (or following the auction itself).

CTIA strongly encourages the Commission to request and obtain precise information from existing broadcast licensees and/or broadcast equipment manufacturers to determine the costs and timelines associated with repacking. As CTIA previously stated, the Commission could accomplish this by providing a survey to broadcasters operating in the UHF spectrum that

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<sup>6</sup> *New Advanced Wireless Services*, Eighth Report and Order, Fifth Notice of Proposed Rulemaking and Order, 20 FCC Rcd 15866 (2005).

could be affected by repacking.<sup>7</sup> The survey could ask these broadcasters to provide – on a confidential basis – detailed information about their existing transmit facilities. The information requested could include the make and model of a broadcaster’s transmitter, the ability of that transmitter to be re-tuned to a new UHF channel, and any other associated modifications that would be required to repack the licensee to a new channel. The Commission should also consider polling a number of the largest TV equipment manufacturers about the capabilities of RF channel modifications to current TV transmitters and antennas. The Commission should also ask manufacturers to provide data on equipment pricing to help the Commission better understand the costs associated with replacing equipment.

Compiling this data regarding existing broadcast facilities will have many benefits. The Commission will be positioned to make informed decisions on several important issues, including which broadcasters to prioritize for repacking, how to mitigate costs, and how to minimize repacking time. The Commission will be able to tailor the repacking process such that the broadcasters who can relocate with minimal disruption will be selected over those for whom repacking would be a much greater financial and technical burden. This information will also help guide Commission decision-making concerning the timeframes needed to complete the repacking process. If broadcast facilities only require minimal technical changes, there should not be a need for a lengthy transition.

Such an inventory also is important because most commenters in this proceeding failed to provide any meaningful pricing data per the Public Notice. The Public Notice requested data on “the prices associated with the hard and soft costs included in the Catalog of Eligible Expenses,” including “specific price information, as well as more general information on the costs

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<sup>7</sup> Comments of CTIA – The Wireless Association®, GN Docket No. 12-268, at 35-36 (Jan. 25, 2013).

broadcasters and MVPDs expect to incur.”<sup>8</sup> As an initial matter, CTIA notes that MVPDs DirecTV and DISH Network, as well as the National Cable & Telecommunications Association (“NCTA”) included with their comments data that no doubt will be of great assistance to the Commission.<sup>9</sup> However, upon review of the record of comments filed, CTIA did not find any meaningful pricing data provided by over-the-air broadcasters or manufacturers for hard and soft costs associated with repacking.

For the repacking and reimbursement process to be successful, the Commission must be armed with the maximum amount of information regarding the prices associated with repacking costs, and it should reject assertions that gathering this data is impossible. NAB, for example, states that prices cannot be submitted because individual stations’ equipment is highly customized and because repacking costs are “difficult to generalize or predict in advance.”<sup>10</sup> LaSEA Broadcasting Corporation, meanwhile, asserts that “[i]t is very possible that prices will increase, sometimes by large margins, once orders begin to be placed due to demand and resulting supply issues.”<sup>11</sup> As an industry that is constantly deploying and upgrading networks and launching new products and services, the wireless community is familiar with the unpredictability inherent to a technological industry. That said, it is ultimately in broadcasters’ interests for the Commission to be armed with as much pricing data as possible and plan an effective repacking. Given the customization cited by NAB, a survey of individual broadcast

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<sup>8</sup> See Public Notice.

<sup>9</sup> See Comments of DirecTV and DISH Network, GN Docket No. 12-268, at 2-3 (Nov. 4, 2013) (providing approximate estimated costs in various categories of expenses); Comments of the National Cable & Telecommunications Association, GN Docket No. 12-268, at 5 (same).

<sup>10</sup> NAB Comments at 15-17.

<sup>11</sup> Comments of LeSEA Broadcasting Corporation, GN Docket No. 12-268, at 2 (Nov. 4, 2013).



licensees may prove more effective than the current Public Notice effort. Even ranges of costs, such as those provided by DirecTV and DISH, would improve the Commission's analysis. Conversely, for the Commission to allow the purported difficulty of data gathering to derail this effort would not benefit any affected party.

#### **IV. THE COMMISSION SHOULD REJECT PROPOSALS MADE BY WIRELESS MICROPHONE MANUFACTURERS FOR RELOCATION REIMBURSEMENT FROM FORWARD AUCTION PARTICIPANTS.**

Finally, the Commission should reject proposals by wireless microphone manufacturers that the Commission require relocation reimbursement from forward auction participants to wireless microphone manufacturers. Wireless microphones are authorized on a secondary basis and, properly, have been granted no relocation rights. Thus, the Commission should follow the same approach it did in the 700 MHz auction process and require wireless microphone manufacturers to bear their own relocation costs.

In their comments, CP Communications PA, LLC ("CP Communications") and Sennheiser Electric Corporation ("Sennheiser") request that the Commission require forward auction winners to cover the relocation expenses of wireless microphone manufacturers. Sennheiser cites the high cost of wireless microphone equipment and the fact that wireless microphones recently underwent a repacking process, and argues that "fundamental principles of equity and justice" require the Commission to require compensation for wireless microphone users.<sup>12</sup> Similarly, CP Communications argues that the Commission has previously allowed for reimbursement of relocation costs incurred by incumbents.<sup>13</sup>

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<sup>12</sup> Comments of Sennheiser Electronic Corporation, GN Docket No. 12-268, at 5-7 (Nov. 4, 2013).

<sup>13</sup> Comments of CP Communications PA, LLC, GN Docket No. 12-268, at 1-2 (Nov. 4, 2013).

As an initial matter, CTIA notes that broadcast auxiliary licensees, such as wireless microphone operators, are authorized solely on a secondary basis in the UHF spectrum.<sup>14</sup> Consistent with this secondary status, the Spectrum Act did not grant any relocation rights to wireless microphones or other broadcast auxiliary services.<sup>15</sup> When the Commission cleared TV Channels 52-69 to make way for new 700 MHz services, it required that all secondary services, such as LPTV and broadcast auxiliary stations, clear the band. With respect to wireless microphones, the Commission properly found that wireless microphones must be prohibited from operating in the 700 MHz spectrum band and held wireless microphone manufacturers financially responsible for developing compliant equipment.<sup>16</sup> Notably, while the Spectrum Act devoted considerable attention to the reimbursement of costs borne by certain 600 MHz incumbents, it did not extend such privileges to secondary operations such as LPTV or wireless microphones.<sup>17</sup> Thus, there is no basis for the Commission to require forward auction licensees to bear these costs.

As was the case with the 700 MHz band clearing, the Commission should require wireless microphone operators to handle their own relocation costs. Wireless microphones should have been designed to be frequency agile and, therefore, should be able to seamlessly migrate to other UHF frequencies without extensive relocation costs. However, if wireless microphone manufacturers failed to make new wireless microphones capable of operating

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<sup>14</sup> *Revision to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band*, Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 643, ¶¶ 8-9 (Jan. 15, 2010) (“*Wireless Microphones Order*”).

<sup>15</sup> Spectrum Act, §§ 6001(6); 6403(b) (limiting reimbursement to full power and Class A broadcast television licensees, MVPDs, and Channel 37 incumbent users).

<sup>16</sup> *Wireless Microphones Order*, ¶¶ 22-54.

<sup>17</sup> *See supra*, n. 18.

throughout the UHF spectrum, this oversight should not be remedied at the expense of new forward auction licensees. Indeed, wireless microphone manufacturers should have been aware that the Commission might require further reallocation of broadcast television spectrum. By the time the Commission formally prohibited wireless microphones in the 700 MHz band in January 2010, the concept of further broadcast spectrum reallocation had been under discussion for several months. The Commission's "hard" deadline for wireless microphone clearance from the 700 MHz band – June 12, 2010 – came nearly three months after the National Broadband Plan's directive that the Commission pursue incentive auctions in the television broadcast band.<sup>18</sup> The FCC also explicitly warned wireless microphone companies more than three years ago that current channels may not always be available and that manufacturers should design their equipment accordingly.<sup>19</sup> Thus, wireless microphone manufacturers have now had several years to design frequency-agile equipment that could be readily retuned to alternate channels in the event of further broadcast spectrum reallocation. Their choice not to do so should not be anyone's financial responsibility but their own.

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<sup>18</sup> Federal Communications Commission, *Connecting America: The National Broadband Plan* at 88-93 (2010).

<sup>19</sup> See *Unlicensed Operation in the TV Broadcast Bands*, Second Memorandum Opinion and Order, 25 FCC Rcd 18661, ¶ 133 (2010) ("If the Commission makes changes to the rules concerning the channels available for operation for TV and other authorized services, the channels available for use by unlicensed TV bands devices and wireless microphones could change, and any TV bands device or wireless microphone that operates on a channel that is later designated for another use would have to cease operation on that channel. Depending on the tuning range of the TV bands device, particularly personal/portable devices, or wireless microphone these radios could have a reduced operating range. We recognize that the anticipated Commission proceedings introduce some uncertainty for manufacturers of TV bands devices and could delay their deployment. To avoid this problem, manufacturers can design devices that have the capability to tune over a wider range of frequencies than the rules currently permit, but that incorporate measures to limit operation to the frequency range over which the device is certified. Manufacturers would therefore not have to redesign their equipment if the Commission modifies the permitted operating frequency range and could modify their equipment certification through a streamlined procedure.").

## V. CONCLUSION

CTIA believes the Commission can best serve the interests of all parties involved in the incentive auction by developing an efficient, data-driven repacking and reimbursement process. To achieve this important goal, the Commission should take all steps possible to provide certainty regarding reimbursement of broadcasters' relocation costs. Because a sufficient record has not yet been developed on these issues, the Commission should solicit additional information from broadcast licensees and equipment manufacturers. Finally, the Commission should reject calls to include wireless microphones in the reimbursement process.

Respectfully submitted,

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